

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

BABYAGE.COM, INC.,
Plaintiff-Counterclaim Defendant

v.

LEACHCO, INC.,
Defendant-Counterclaim Plaintiff/
Third Party Plaintiff

and

JAMIE S. LEACH,
Counterclaim Plaintiff/
Third Party Plaintiff

v.

JOHN M. KIEFER, JR.,
Third Party Defendant/
Counterclaim Plaintiff

CIVIL ACTION NO.
3:07-cv-01600-ARC

Judge A. Richard Caputo

Filed Electronically

PLAINTIFF-COUNTERCLAIM DEFENDANT'S
MOTION TO AMEND COMPLAINT

Plaintiff-Counterclaim Defendant, BabyAge.com, Inc. ("BabyAge"), by and through its attorney, Andrew J. Katsock, III, Esquire, hereby moves this Honorable Court for leave to file an Amended Complaint pursuant to F.R.C.P. 15(a), and in support of its Motion, BabyAge avers the following:

1. On April 3, 2007, by facsimile, Defendant-Counterclaim Plaintiff/Third Party Plaintiff, Leachco, Inc. ("Leachco"), accused BabyAge of infringing U.S. Patent No. 6,760,934, demanding BabyAge cease and desist selling its Cozy Comfort pillow and pay money damages to Leachco.

2. BabyAge denied any wrongdoing and through its patent counsel attempted to explain to Leachco why its Cozy Comfort pillow is non-infringing.

3. When it became apparent that Leachco would not alter its demands, BabyAge filed a Complaint for Declaratory Judgment against Leachco on August 30, 2007.

4. Leachco and Counterclaim Plaintiff/Third Party Plaintiff, Jamie S. Leach (“Leach”) counterclaimed, adding Counterclaim Defendant, John M. Kiefer, Jr. (“Kiefer”), to the action.

5. BabyAge and Kiefer filed timely answers to the Counterclaims.

6. Throughout the litigation, BabyAge has been conducting an ongoing investigation into what it believes are illegal pricing policies of Leachco.

7. Both Leachco and its counsel were made aware of BabyAge’s ongoing investigation of Leachco’s illegal pricing policies.

8. BabyAge now wishes to amend its Complaint to include counts of anti-trust violations with respect to Leachco’s anti-competitive behavior.

9. Concurrent with this Motion, BabyAge has timely filed its Brief in Support of its Motion to Amend Complaint.

10. Pursuant to Local Rule 15.1(a), the proposed Amended Complaint is attached hereto.

11. Pursuant to Local Rule 15.1(b), a marked up copy of the original Complaint is also attached hereto.

WHEREFORE, Plaintiff-Counterclaim Defendant, BabyAge.com, Inc., respectfully requests that this Honorable Court grant leave to amend its Complaint.

Date: March 4, 2008

/s/ Andrew J. Katsock, III, Esquire
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